

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,
Plaintiff,

v.

SAMUEL EMILIO REYES,
Defendant.

CRIMINAL NO. 16-788 (PAD)

UNITED STATES' SENTENCING MEMORANDUM

TO THE HONORABLE COURT:

The United States of America (the "United States"), by and through undersigned counsel, hereby files this Sentencing Memorandum in the above-captioned matter. Based on the sentencing factors set forth in Title 18, *United States Code*, Section 3553(a), including the relevant sentencing guidelines, the United States respectfully requests that this Honorable Court sentence defendant Samuel Emilio Reyes to the time that he has already served in prison, for Count One of the Indictment.

I. INTRODUCTION

On February 9, 2017, defendant Samuel Emilio Reyes pled guilty, via straight plea, to Count One of the Indictment, that is, an alien previously removed from the United States, in violation of Title 8, *United States Code*, Section 1326(a).

Count One charges that on or about December 4, 2016, in the District of Puerto Rico, and elsewhere within the jurisdiction of this Court, the defendant, being an alien previously removed from the United States, did knowingly and intentionally attempt to enter the United States without having obtained, prior to his re-embarkation, at a place outside the United States, the express consent from the Secretary of the Department of Homeland Security, to reapply for admission into

the United States; all in violation of Title 8, *United States Code*, Sentencing is currently scheduled for May 12, 2017.

II. FACTUAL BACKGROUND

On December 4, 2016, at approximately 11:10 pm, an aircraft from the Office of Air and Marine (OAM) detected a "yola" type vessel near Aguadilla Bay, heading South East towards Puerto Rico. The vessel had several visible occupants on board. A United States Coast Guard (USCG) Cutter was vectored to position.

On December 5, 2016 at approximately 1:00 am, the USCG Cutter was able to locate and intercept the vessel at about 17 nautical miles from the coast of Aguadilla, Puerto Rico. All persons on board the vessel, including defendant Reyes, claimed to be undocumented aliens from the Dominican Republic and India. Moreover, further investigation revealed that defendant Reyes had previous immigration history when back in December 2014, he was arrested in Florida and was removed to the Dominican Republic.

III. PRE SENTENCE REPORT (PSR) RECOMMENDATION AND ARGUMENT

According to the PSR offense level computation, the total offense level is 6 with a criminal history category of I, which yields a sentencing guideline range of imprisonment of 0 to 6 months. The offense charged carries a statutory maximum term of imprisonment of 2 years.

The touchstone for determining a proper sentence is determined by whether a sentence is reasonable in light of the enumerated factors set forth in Title 18, *United States Code*, §3553(a).

Factors particularly relevant in this case include the circumstances of the offense and the need for the sentence to reflect the seriousness of the offense. Based on nature of this case and the PSR's recommendation, the United States submits that a sentence for the time that he has already served is sufficient but not greater than necessary.

WHEREFORE, the United States respectfully submits that a sentence of **time-served** is sufficient but not greater than necessary in light of the facts in this case and the seriousness of the offense.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on this 2nd day of May 2017.

ROSA EMILIA RODRIGUEZ-VELEZ
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s/ Elba Gorbea
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel for the defendant.

s/ Elba Gorbea
ELBA GORBEA
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